



Consumer Federation of America

May 14, 2007

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Application for Consent to Transfer Certain Assets and Long-Distance Customer Relationships in the States of Maine, New Hampshire, and Vermont from Verizon New England, et. al to FairPoint Communications, Inc, WC Docket No. 07-22

Dear Ms. Dortch,

We are writing to enter into the record the views of consumer and public interest organizations on the proposed sale of wireline assets of Verizon Communications to FairPoint Communications. We have serious concerns that the proposed transaction may not benefit consumers or serve the public interest. We would like to use this opportunity to highlight these issues and encourage the Commission to address them as it moves toward a decision on this application. We would like to draw the Commission's attention to the extensive evidence submitted into this proceeding that this transaction, if approved, could result in a lack of growth of high-speed broadband Internet service to the affected regions and further exacerbate the broadband digital divide in the nation.

According to the Organization for Economic Cooperation and Development, the United States ranks 15th among the 30 member nations in broadband penetration.¹ This study, among others, continues to show that United States is struggling to provide consumers with the communication tools of tomorrow. This lack of broadband development carries significant economic costs. One study noted we could add a half trillion dollars to the U.S. economy and produce over a million new jobs with widespread adoption of broadband.²

The states affected by this proposed transaction, Maine, New Hampshire, and Vermont, have had difficulty for years in bringing high speed Internet to underserved areas. The region continues to miss out on the very real benefits of ubiquitous, inexpensive high-speed Internet access. While the state governments have taken steps to correct this, there is no doubt that the problem will persist until these networks get the attention and investment they need to transition to full broadband capability. We note that two of these states have

¹ Organization for Economic Cooperation and Development (OECD), "OECD Broadband Statistics to June 2006," October 13, 2006, Available at <http://www.oecd.org/sti/ict/broadband>

² Thomas Bleha. "Down to the Wire." *Foreign Affairs*, May/June 2005.
<http://www.foreignaffairs.org/20050501faessay84311/thomas-bleha/down-to-the-wire.html>

the highest percentage of rural residents in the country, with the third not far behind.³ According to an analysis by Free Press using all available FCC data, Vermont and New Hampshire are the two lowest ranked states in the country in the percentage of residential copper lines with DSL capability, with over 40% going unserved.⁴ Maine comes in five spots higher with well over 30% going without service.⁵ As noted by Verizon and FairPoint Communications, Chairman Martin and Commissioner Copps have called for an increase in broadband deployment, we believe there is no better place to start than in these three states.⁶ We should look at consumer welfare in simple terms—is broadband available, is it affordable, and is it a good value (in terms of cost per unit of speed)?²

The challenge facing the Commission with regard to this specific proceeding is to decide whether this sale will promote broadband deployment in the affected areas or only serve to stifle it. FairPoint Communications has publicly declared that they would exceed the DSL roll out that Verizon had agreed to with the state of Vermont.⁷ We encourage the Commission to ensure that all three states will see significant increases in DSL access as a result of this sale. FairPoint has stated that “Currently 92% of FairPoint’s customers in the three states have access to broadband services”.⁸ A look at FairPoint’s website reveals that these customers are being offered 384k downstream and 256k upstream for a rate of \$34.95 per month.⁹ Meanwhile, Verizon currently offers 3.0Mb (3000k) downstream and 768k upstream for a rate of \$37.99 per month.¹⁰ This fact begs the question what level of service will these new customers be receiving and at what price? This is just one of many questions the Commission needs to examine before trusting that FairPoint could take on a tremendous debt load while still investing in the broadband growth these states so desperately need.

With a combined population of more than 3 million people, many being rural, the investment necessary to make these lines broadband capable for truly high speed Internet access may be considerable. We note that FairPoint will be acquiring an entity that is six times larger than its current size.¹¹ Regardless of Fairpoint’s past acquisition record, this represents uncharted territory for the company. Moreover, evidence in the record suggests that the new company will not be investing at the rates Verizon was prior to embarking on its FiOS project.¹² How will this affect FairPoint’s ability to roll out DSL? In addition,

³ Vermont-61.8%, Maine-59.8%, New Hampshire-40.7%; U.S. Census Bureau. Census 2000 Summary File 3, Table P5. Data extracted via <http://factfinder.census.gov>.

⁴ Free Press Analysis; Note: All data from FCC Form 477 as of June 30, 2006

⁵ Id.

⁶ See Opposition to Petitions to Deny of Verizon and FairPoint Communications, Inc., WC Docket No. 07-22 (filed May 7, 2007) (“FairPoint Opp”) at 18

⁷ Id. at 20

⁸ Id., Exhibit B, at 15

⁹ FairPoint Communications, Inc. “DSL” Accessed on 10 May 2007, <http://www.fairpoint.com/telco/646fpne/internet/dsl.php>.

¹⁰ Verizon also offers a service that provides twice the downstream speed and half the upstream speed of FairPoint’s plan for \$14.99 per month with a one-year agreement. Verizon. “Verizon High Speed Internet Plans.” Accessed on 10 May 2007, <http://www22.verizon.com/content/consumerdsl/plans/all+plans/all+plans.htm>.

¹¹ Petition to Deny of Communications Workers of America and International Brotherhood of Electrical Workers, WC Docket No. 07-22 (filed Apr. 27, 2007) (“CWA Pet”) at 9

¹² In response to claims of this in CWA Pet. at 20, “FairPoint intends to spend more capital expenditures per line than Verizon has in its *recent* history” (Emphasis ours) FairPoint Opp, Exhibit B, at 14

Verizon's record of DSL deployment in these three states as referenced above has been far from sufficient. The proposed sale of these wireline assets should be used to create a new standard for the region, not to grant tacit permission for it to slip farther behind.

Other participants in this proceeding have outlined a variety of obstacles that the new FairPoint will need to overcome in order to for this sale to serve the public interest.¹³ These hurdles are real and could significantly jeopardize the level of speed and service provided to customers in Maine, New Hampshire, and Vermont. The concerns put forth by other parties and the claims made by the Transferor and Transferee warrant close scrutiny. We have serious misgivings that this sale will not be in the public interest and if the Commission deems otherwise we urge every commissioner to consider attaching enforceable requirements for broadband deployment. The Commission should examine all available information and ascertain whether this will be a step towards boosting the current standing of these three states thereby contributing to the President's vision of having universal broadband.

Sincerely,

Ben Scott
Policy Director
Free Press

Mark Cooper
Director of Research
Consumer Federation of America

¹³ See CWA Pet; Petition to Deny of One Communications Corp., WC Docket No. 07-22 (filed Apr. 27, 2007)